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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ViaSat, Inc.,) Case No.: 3:16-cv-00463-BEN-JMA
<i>a Delaware corporation,</i>)
) Joint Motion to Modify Scheduling
) Order
Plaintiff)
and Counter Defendant,)
)
v.) Dist. Judge: Hon. Roger T. Benitez
) Hon. Magistrate Jan M. Adler
Acacia Communications, Inc.,)
<i>a Delaware corporation,</i>)
) Case Initiated: January 21, 2016
Defendant)
and Counter Claimant,)
)
)
)

1 Plaintiff and counterclaim defendant ViaSat, Inc. (“ViaSat”) and defendant
2 and counterclaimant Acacia Communications, Inc. (“Acacia”) jointly move the
3 Court to modify the August 31, 2016 Scheduling Order (Doc. 26) and the Order
4 Granting the parties’ prior Joint Motion to Modify the Scheduling Order (Doc.
5 48), to briefly extend a portion of the fact discovery deadline and certain other
6 subsequent deadlines by 30 days or fewer, as set forth in the attached Proposed
7 Order.

8 Good cause exists for continuing certain of the remaining discovery
9 deadlines. The parties have been working diligently on discovery, and in the
10 course of June and July have each produced hundreds of thousands of pages of
11 documents. They have also conducted one fact deposition in June, and several in
12 July. They have also each issued third-party subpoenas, and are in the process of
13 conducting additional third party discovery. Apart from fact depositions, the
14 parties believe they will be able to complete fact discovery by the present
15 deadline of August 1, 2017. But the parties do not believe they will be able to
16 complete all fact depositions by the present deadline, due to the large number of
17 documents produced in this case, the technical issues involved, the locations of
18 the deponents, as well as vacation schedules and other commitments for both the
19 witnesses and counsel for the parties.

20 Both the parties and the Court will benefit from extending the deadline to
21 complete fact depositions by thirty days, to August 31, 2017. Further, they
22 believe they may need to conduct fact depositions of two Acacia witnesses
23 subsequent to that date, as proposed below. As a result, certain subsequent
24 deadlines for expert discovery should also be extended for slightly lesser periods,
25 also as proposed below. Dispositive motions and all subsequent deadlines would
26 remain the same, including the pre-trial deadlines.

1 This is the second request to modify the scheduling order. The parties
2 previously submitted one joint motion to modify the scheduling order (Doc. 46),
3 which the Court granted (Doc. 48).

4 Therefore, the parties respectfully request that the Court issue an amended
5 scheduling order in the proposed form attached, extending certain discovery
6 deadlines as follows:

7 1. All fact discovery apart from fact witness depositions shall be
8 complete by August 1, 2017.

9 2. Completion of all fact witness depositions shall be continued from
10 August 1, 2017 to August 31, 2017, except that Acacia witnesses Murugesan
11 “Raj” Shanmugaraj and Christian Rasmussen may be deposed after August 31,
12 2017. To the extent either of these witnesses is deposed after deadline(s) for
13 disclosures under Rule 26(a)(2)(A)-(D) have passed, the parties may in good faith
14 amend those disclosures once within ten calendar days of the last such deposition,
15 and solely to address the deposition or depositions that occurred after the
16 disclosure deadline.

17 3. As Mr. Shanmugaraj is Acacia’s President and CEO, ViaSat shall
18 limit his deposition to topics and documents on which he has unique first-hand,
19 non-repetitive knowledge of the facts at issue in the case, and for a period not to
20 exceed five hours. Acacia shall not designate Mr. Shanmugaraj to testify on its
21 behalf under Federal Rule of Civil Procedure 30(b)(6).

22 4. Compliance with the disclosure provisions in Rule 26(a)(2)(A)-(C)
23 of the Federal Rules of Civil Procedure shall be continued from September 1,
24 2017 to September 22, 2017.

25 5. Disclosure regarding contradictory or rebuttal evidence under
26 Federal Rules of Civil Procedure 26(a)(2)(D) and 26(e) shall be continued from
27 September 29, 2017 to October 20, 2017.
28

SIGNATURE CERTIFICATION

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to Kenneth M. Fitzgerald and Michael A. Albert, Esq., and I have obtained their authorization to affix their electronic signatures to this document.

Dated: August 1, 2017

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

By: s/ Victor M. Felix

Victor M. Felix
Attorney for Defendant and
Counter Claimant Acacia
Communications, Inc.

CERTIFICATE OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH LLP, 525 "B" Street, Suite 2200, San Diego, California 92101. On **August 1, 2017**, I served the foregoing document.

☒ *(Federal)* **BY CM/ECF NOTICE OF ELECTRONIC FILING** by causing such document(s) listed above to be served through this Court's electronic transmission facilities via the Notice of Electronic Filing (NEF) and hyperlink, to the parties and/or counsel who are determined this date to be registered CM/ECF Users set forth in the service list obtained from this Court on the Electronic Mail Notice List.

☒ *(Federal)* I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

s/Victor M. Felix

Victor M. Felix